



Investigating Complaints: What ACAs Should Know

National Organic Program

Compliance & Enforcement Branch

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Overview of Topics

- [Training Objectives](#)
- [Definition of Investigation](#)
- [Investigative Process](#)
- [Issuance of Notices](#)
- [Reporting Investigative Results to NOP](#)



Training Objectives

- **Establish basic parameters for the investigative process**
- **Achieve consistency in complaint investigations**
- **Increase uniformity in enforcing NOP regulations**

Definition of Investigation



A systematic gathering of facts and evidence to support or refute an allegation.

Investigative Process

Step 1
**Initiating
an
Investigation**

Step 2
**Planning
an
Investigation**

Step 3
**Conducting
an
Investigating**

Step 4
**Analyzing
Facts &
Evidence**

Step 5
**Determinin
g Course of
Action**



Investigative Process

Initiating an Investigation Step 1

- A request from NOP
- A complaint received by the ACA
- Notification from another government agency
- Secondary sources, i.e. media

Planning an Investigation Step 2

Identify types and sources of information, and methods to gather

Determine methods of investigation: Desk audit and/or onsite visit

Identify the allegations

Onsite visit: announced or unannounced?

Prepare an investigative plan

Investigative Process

Conducting an Investigation Step 3



- Records review
- Interviewing
- Photographing
- Sampling
- Testing
- Product Tracing



Records Review

Pursuant to section 205.103 certified operations must maintain records concerning the production, harvesting and/or handling of agricultural products

- Organic System Plan(s)
- Labels (display and information panels)
- Product specifications, formulas percentages, batch reports and processing procedures
- Organic certificates
- Lab reports



Records Review (continued)

- Invoices and Purchase orders
- Transport documents (e.g., bill of lading)
- Confirmation of sales
- Import manifest, with cargo control number
- Receiving documents
- Storage documents including stock rotation and inventories
- Product usage, processing or repacking records
- Shipping and loading documents
- Inspection certificates and/or reports.

Interviewing

Interviews should include the statements of

- Owner(s)
- Operator(s)
- Witnesses

All statements taken during an interview should include:

Date, time,
location of
interview &
Name, title of
interviewer

Interviewee's full
name, title,
contact
information,
experience

Interviewee's
signature

Photographing



Pictures are worth a thousand words!

Take pictures whenever appropriate





Sampling & Testing

In all cases, the chain of custody . . .
must always be maintained.

- Have a lab selected prior to sampling;
- Determine criteria and methods for storing & transporting samples prior to sampling;
- All sampling must be documented.



Sampling must be documented

Date, time, number of samples taken, medium of extraction & exact location where samples are taken

Criteria used for determining sample selection


Sample Log Sheet

Container and tool(s) used; environmental conditions (e.g. Indoor - outdoor temperatures)

Names of personnel taking samples & witnesses

Testing

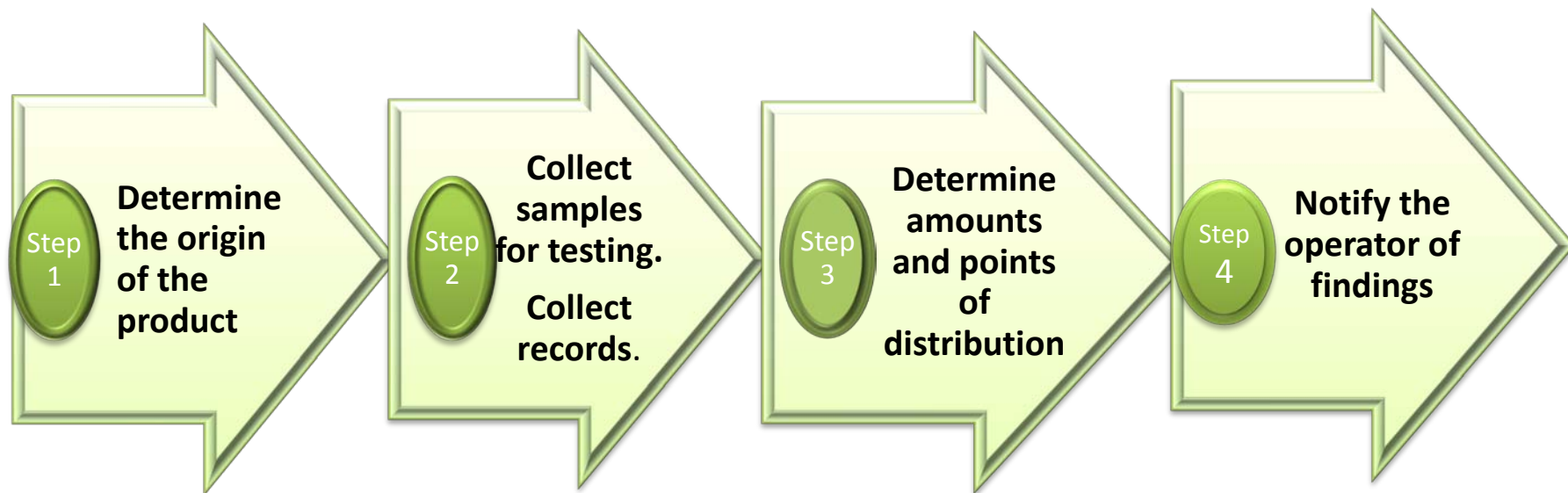
Transmittal of sample(s) for testing to accredited lab facility:

- 
- Two yellow stars are positioned to the left of the list item. The top star is a solid yellow five-pointed star with a black outline. The bottom star is a lighter yellow, semi-transparent five-pointed star with a black outline, appearing to be behind the first one.
- Retain transmittal or mail receipts to lab(s) to verify chain of custody.



Product Tracing

Trace-back investigations: determine and document the **origin/source** and subsequent distribution of a product that has been implicated during an investigation





Product Tracing continued

Step
5

Food Safety issues?
Notify appropriate federal
agencies

Step
6

Prepare Final Report

Investigative Process

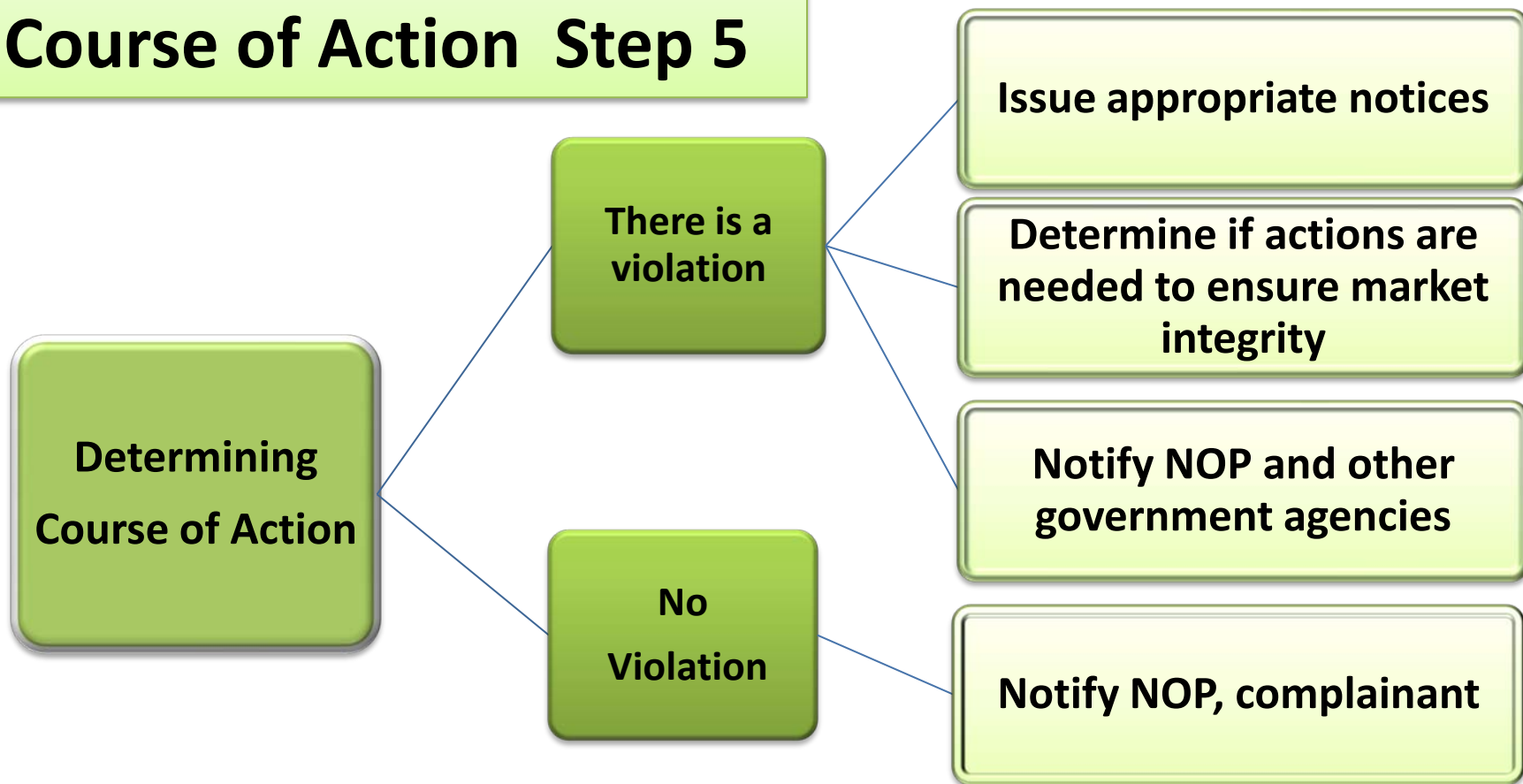
Analyzing Facts & Evidence Step 4

- Organize the facts by allegations
- Determine whether facts refute or confirm the allegations
- Identify other potential problems

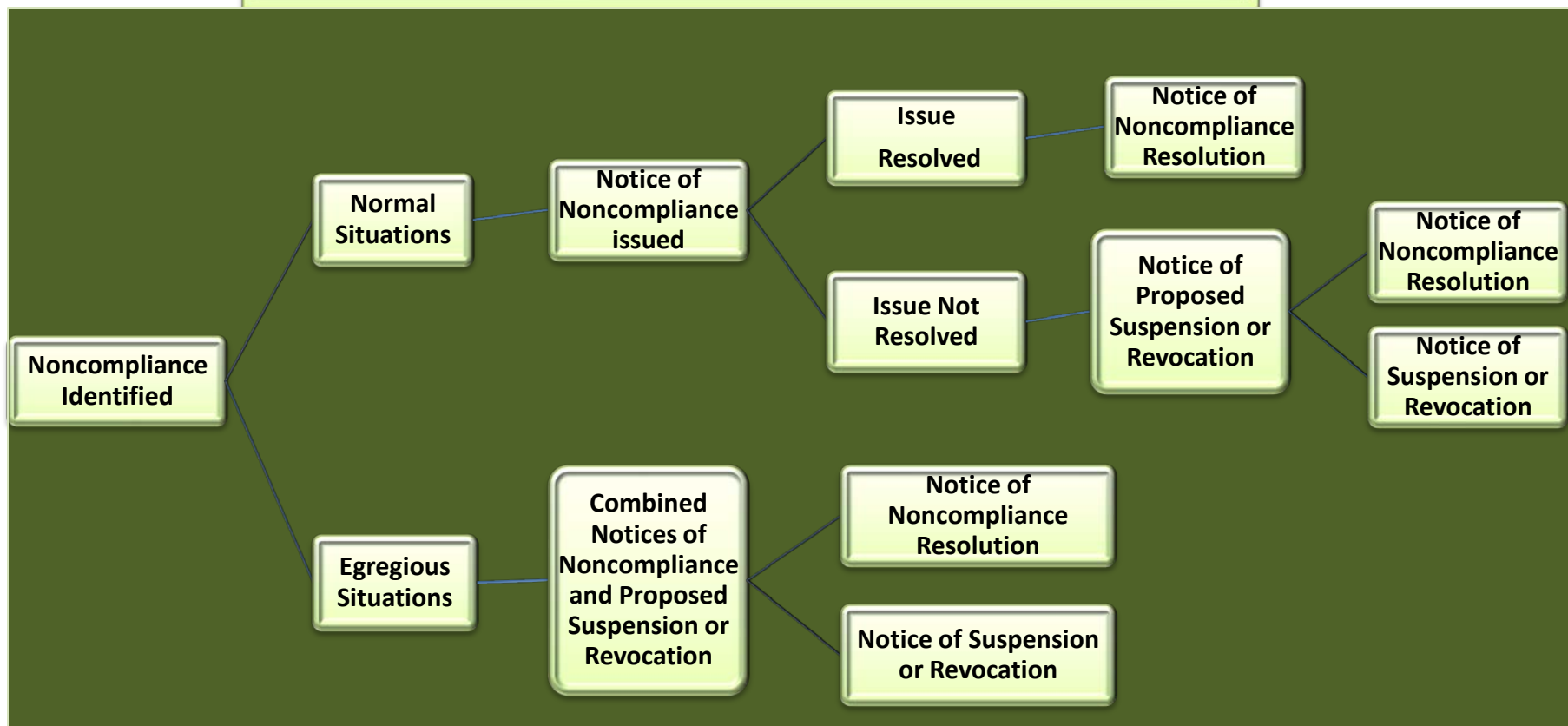


Investigative Process

Course of Action Step 5



Issuance of Notices





Notice of Noncompliance

Used when there is noncompliance, and

Provides:

- A description of each noncompliance
- Facts supporting the noncompliance
- A description of the necessary corrective actions.
- Specification of a deadline for rebuttal or corrective actions



Notice of Proposed Suspension

Used when noncompliance is possible to correct; and States:

- The reasons for the suspension
- The proposed effective date
- The impact of the suspension
- The right to request mediation or file an appeal
- Appeal information: deadline (30 days), address, etc.

Notice of Proposed Revocation

Used when there is willful and egregious violation and/or noncompliance is not possible to correct; and States:

- The reasons for the revocation
- The proposed effective date
- The impact of the revocation
- The right to request mediation or file an appeal
- Appeal information: deadline (30 days), address, etc.

Combined Notices

- Only used when there is evidence of willful and egregious violation(s)
- Should not be used as a threat to goad compliance
- Once issued, the recipient has limited options

Reporting Investigative Results to NOP

[Investigative Report](#)

[Investigative File](#)

**Cover Letter
Addressing
Allegations and
Conclusions**

[Actions Taken and Results](#)

[Further Actions and Follow-up needed](#)



Reporting to the NOP -The Investigative Report & File

Investigative Report:

Facts; analysis of records and interviews; references to applicable regulations and policy; conclusions and recommended actions

Investigative File:

Documents collected and analyzed, organized in a systematic manner.

Reporting to the NOP - Actions and Follow-up

Actions Taken and Results

- Notice of Noncompliance
- Notice of Proposed Suspension
- Notice of Proposed Revocation
- Combined Notices

Further Actions and Follow-up needed

- Corrective actions taken by the operator
- Failure to take corrective action by the operator

Reporting Investigative Results to NOP

- Make sure facts and evidence are sufficient to draw conclusions.
- Documentation should be organized logically and connected to specific allegations.

Conclusion



- Questions and Discussion